

**MINUTES, FREMONT PLANNING COMMISSION
REGULAR MEETING OF JULY 11, 2002**

CALL TO ORDER: Chairperson Manuel called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Manuel, Commissioners Arneson, Cohen, Harrison, Thomas, Weaver

ABSENT: Wieckowski

STAFF PRESENT: Jeff Schwob, Senior Planner
Christine Daniel, Senior Deputy City Attorney
Nancy Minicucci, Planner II
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Walter Garcia, Video Technician

APPROVAL OF MINUTES: None

THE CONSENT LIST CONSISTED OF NO ITEMS.

Item 1. **WASHINGTON WEST RETAIL SHOPS - PUBLIC ART - (PLN2002-00240)** - to consider three alternatives for public art to be located at the corner of Paseo Padre Parkway and Mowry Avenue. This project is categorically exempt from CEQA review per Section 15332, In-fill Development Projects. A landscape plan is also included as an informational item per a condition of approval in the original application (F99-20). (Continued from June 27, 2002.)

Doug Wiele, Douglas Thomas Properties, presented three designs for artwork created by Kyoto Studios in Oakland, which specialized in large-scale, public art within the Western United States. He stated that the hospital district asked that the Planning Commission either eliminate one of the three choices (leaving the final choice for the hospital) or choose the one it preferred.

1. "Harmony of Shapes" Four curves (the tallest 18 feet, the shortest 9 feet) from which water cascaded to a pool of water at the base. It would be composed of metal, water and foliage.
2. "World Within a World" A circle within a circle, which consisted of a stone sculpture (eight feet tall) with a moon opening cut into it. A sheet of water flowed from it into another circle and into a reflecting pool at the base (two feet high, totaling a height of ten feet).
3. "Groundbreaking" A nine-foot bronze sculpture of the founder and first hospital board president, Lester Whitaker, with shovel in hand, along with waterfall and landscaping (total height 12 feet).

Chairperson Manuel opened the public hearing.

Vice Chairperson Arneson asked what kind of metal would be used for Alternate No. 1 (Harmony of Shapes) and was it durable and strong.

Tom Perry, Construction Superintendent, replied that the structure would be metal-clad fiberglass in either bronze or stainless steel. Stainless was preferred. It would be strong enough to stand up to afternoon winds.

Commissioner Thomas asked how the water fell from the stone circle in Alternate No. 2 World Within a World).

Mr. Perry stated that the stone would actually be fabricated rock with all piping and pumping equipment inside of it.

Mr. Wiele replied that No. 1 would have no back to it. One could look through it with the water falling down the center. No. 2 would have a front with a reflecting pool and a back with a landscaped screen, which was yet to be designed.

Commissioner Harrison asked if the figure in Alternate No. 3 (Groundbreaking) would be made of bronze and if it would be allowed to oxidize to a green color. He asked if the sculpture would be lifelike or abstract.

Mr. Perry replied that the sculpture would be cast then bronze coated and, from all appearances, would look like bronze. The sculpture would be coated to protect the original bronze color. He stated that the sculpture would be cast from an archival photo of Lester Whitaker and it would look just like him.

Chairperson Manuel closed the public hearing.

Commissioner Thomas stated that No. 3 (Mr. Whitaker in Groundbreaking) was too conservative, "too 1940s and 1950s" and was her last choice. She preferred No. 1 (Harmony of Shapes); however, she wondered, on a windy day, if the water would blow from its 18-foot height. Vandalism was also a concern.

Vice Chairperson Arneson much preferred "the gracefulness, the style, the simplicity, the elegance and the beauty of No. 1." She could imagine No. 2 being a "magnet for mischief." No. 3 reminded her of the gold rush areas of California, which did not fit downtown Fremont.

Commissioner Weaver agreed with the previous comments. No. 1 and 2 were much more interesting and agreed that there could be a problem with the wind blowing the water.

Planner Minicucci stated that the water would drip from the top of the curve in No. 1 and was vandal-proof and the water would deter tagging.

Commissioner Harrison stated that he had showed the three designs to 25 people and received 25 different rankings. He liked the nostalgia showed in No. 3, but agreed that the corner was the wrong location. He noted that although the City was named after John C. Fremont, there was no statue of him anywhere in the City. He also liked No. 1 best.

Commissioner Cohen stated that he looked forward to seeing No. 1 being installed on the corner. It was a modern expression of very traditional and spiritual ideas.

Chairperson Manuel thanked the hospital, the developer and the City for working to bring art to this important and prominent corner. She stated that No. 1 was her favorite, because it had a modern quality to it and would bring tranquillity to the urban setting that was envisioned for downtown. She felt that the Mr. Whitaker sculpture was not appropriate for a retail shopping center, but would be very appropriate elsewhere on the hospital campus.

Commissioner Thomas asked if the large trees shown in the color renderings would be appropriate so close to the intersection.

Planner Minicucci stated that the landscaping would be decided during the Development Organization process.

Chairperson Manuel asked if the landscaping could come back to the Planning Commission as an information item. She hoped that it would be more interesting than the site landscaping, which seemed to consist of "Home Depot plants."

Chairperson Manuel asked when the artwork would be installed.

Mr. Perry stated that it should be in place during the first quarter of next year.

Commissioner Cohen complemented the developer on what could be seen, so far, of the Walgreen's building. "It's good."

IT WAS MOVED (COHEN/ARNESON) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

FIND PLN2002-00240, AS PER EXHIBIT "B" IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND OBJECTIVES OF THE CENTRAL AREA PLANNING DIAGRAM;

AND

APPROVE PLN2002-00240, AS SHOWN ON EXHIBIT "B", PROPOSAL 1 – "HARMONY OF SPACE" – ON THE CORNER OF PASEO PADRE PARKWAY AND MOWRY AVENUE, SUBJECT TO FINDINGS AND CONDITIONS INCLUDED IN ON EXHIBIT "C",

AND

DIRECTED STAFF TO BRING BACK THE ACCOMPANYING LANDSCAPE PLAN FOR THE CORNER AREA TO THE PLANNING COMMISSION AS AN INFORMATIONAL ITEM.

The motion carried by the following vote:

AYES: 6 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver

NOES: 0

ABSTAIN: 0

ABSENT: 1 – Wieckowski

Item 2.

TENTATIVE MAP 7918 (formerly 7381) - 870 Yakima Drive - (PLN2002-00072) - to consider a previously approved (but expired) tentative parcel map for a subdivision of one parcel into two parcels located at 870 Yakima Drive in the Warm Springs Planning Area. This project is categorically exempt from CEQA review Section 15315, Minor Land Divisions.

Mark Piazza, representing the owners, asked for questions and stated that the engineer was present.

Chairperson Manuel opened the public hearing.

Vice Chairperson Arneson asked if moving the existing house further into the lot had been considered.

Mr. Piazza stated that it was not economically feasible to move the structure.

James C. Chen, engineer, stated that the owner of the existing house did not wish to move or demolish the house.

Chairperson Manuel closed the public hearing.

Vice Chairperson Arneson was concerned that this subdivision would create a substandard lot, as the existing house would be sited within ten feet of the new property line. The three-car garage would have to be reoriented towards the front, which would not compliment the existing house. In her opinion, the houses would be jammed into one side of the lot, which was not aesthetic or complimentary to the existing homes with larger lots. It was not consistent with the General Plan.

Commissioner Thomas suggested that creating an irregular lot line to form a flagged lot might be more attractive and would allow one house to be moved towards the back of the lot. She acknowledged that if the subdivision, as presented, was legal, then the Commission could not disallow it.

Chairperson Manuel asked Senior Deputy City Attorney Daniel what the Commission could do, legally, if it was not in compliance with the General Plan.

Senior Deputy City Attorney Daniel replied that the Commission needed to decide if the project was, in fact, in compliance with the General Plan. She reminded the Commission that it was not within the Commission's purview to decide the location of the new structure.

Commissioner Thomas asked if the owner could legally build a home as large as the tentative footprint shown on the map.

Senior Planner Schwob stated that as long as the required set backs were met (25 foot front yard, 35 foot rear yard and up to 10 foot side yards), a home could be built on any remaining part of the lot that was not encumbered by easements or other constraints.

Vice Chairperson Arneson asked if some Commissioners could not make the finding that this subdivision was consistent with the General Plan, "where are we?"

Senior Deputy City Attorney Daniel stated that if the majority of the Commission felt that way, then a finding of inconsistency with the General Plan would have to be made and substantial supporting evidence of inconsistency would have to be in the record.

Commissioner Harrison understood that this project had been approved in the past by a 5 to 2 vote. He asked what had changed since it last came before the Commission.

Senior Planner Schwob stated that the storm drain easement location through the site was the only change.

Vice Chairperson Arneson recalled that she was one of the two who voted against the project.

Commissioner Harrison wondered why the past approval might be overturned when it had been formerly approved as presented.

Commissioner Thomas asked if a flag lot was a reasonable alternative. She asked how far back the building footprint could be pushed.

Senior Planner Schwob stated that a flag lot was not out of the question. However, the same result could be achieved by recommending that the house be set back further from the street to avoid the look of it being "jammed in there from the front." As long as there was 35 feet for the back yard, it could be done.

Chairperson Manuel asked if the condition that set the house back 70 feet spoke to the front set back and if the new home would be set back the 70 feet. She asked if the Commission could comment on the scale of the proposed new house.

Senior Planner Schwob stated that the 70-foot set back was established to match the set back of the existing house. However, the new house could be set back even further, for example, 80 or 90 feet, but it would reduce the usable backyard area. The scale of the house was not within the purview of the Commission.

Commissioner Weaver was torn, as she had originally supported the subdivision and she recalled Vice Chairperson Arneson making the same points. She would approve setting the new house back farther from the street.

Commissioner Thomas asked if, legally, the two lots could share a driveway. If the existing driveway was not changed, the front would not have to be reconfigured and the second house could be built farther back from the street than currently presented.

Senior Planner Schwob stated that a driveway that allowed joint access was possible. However, reciprocal easements would have to be recorded. He suggested asking the applicant if he would agree to a joint driveway.

Chairperson Manuel suggested a continuance to allow time for the applicant to work with staff to create a more interesting solution, given the statements made by the various Commissioners.

IT WAS MOVED (HARRISON/THOMAS) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THAT THE PLANNING COMMISSION CONTINUE TO AUGUST 8, 2002, TO ALLOW APPLICANT TIME TO CONSIDER SOME OF THE COMMISSION'S SUGGESTIONS REGARDING THE CONFIGURATION OF THE LOTS AND THE PLACEMENT OF THE NEW HOME.

The motion carried by the following vote:

AYES:	6 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Wieckowski

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff

- *Housing Element Update*

Senior Planner Schwob reported that the State had declined to certify the City's Housing Element, and noted the State's letter was included in the Commissioners' packets. It was not certified, because, in the State's opinion, sufficient land had not been zoned at densities high enough to accommodate the City's share of the regional housing need. The City either had to have properties that allowed high density by right with no discretionary approvals or the sites must be identified and committed to rezoning for specific densities. More demonstrating, clarifying and explaining would be done, along with some stronger wording and commitments to actually rezone appropriate properties.

Commissioner Harrison asked if the Housing Element would then have to come back through the Commission and City Council.

Senior Planner Schwob stated that it would.

Commissioner Thomas noted that the letter from the State complimented Senior Planner Schwob on his exemplary cooperation.

Commissioner Cohen stated that he was a strong affordable advocate. However, the issue was the right of a locality to plan versus a housing mandate from the State. He would like to see what the Los Altos Hills or Piedmont was doing to meet the mandate.

Senior Planner Schwob stated that Emeryville was the only city in Alameda County to have a certified housing element and they were also denied the first time. Cupertino and Campbell had a certified housing elements and they had agreed to exceed the regional housing need numbers.

- *Availability for wetlands tour, need two hours anytime on July 15, 2002 or 8:00 a.m. to 12:00 p.m. on July 16, 2002.*

Commissioner Thomas asked if “this was another on of those hip-boots-in-the-muck-type tour.”

Senior Planner Schwob stated that yes, it would include a little bit of that.

Chairperson Manuel asked when the decision had to be made.

Senior Planner Schwob stated that the decision needed to be made at this meeting.

After some discussion, it was decided to schedule the tour from 11:00 a.m. to 1:00 p.m. on July 16, 2002.

Meeting adjourned at 8:00 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Jeff Schwob, Acting Secretary
Planning Commission